REMARKS

This amendment is submitted in response to the outstanding Official Action mailed March 17, 2009. In view of the above claim amendments and the following remarks and the enclosed Petition to Revive an Application Unintentionally Abandoned, reconsideration by the Examiner and allowance of the application is respectfully requested.

Claims 1, 9 and 19–21 are amended to more particularly point out and distinctly claim the subject matter Applicant regards as the invention. In particular Claim 1 has been amended to clarify that the only portion of the claimed method that is computer based is the cooperative management of the first and second investment portfolios. Claim 1 is also been amended to clarify that the controlling of the first investment portfolio is receiving control of collateralizable securities with the authority to pledge the securities as collateral. This is disclosed in the specification at page 9, lines 7 – 9 and does not introduce new matter.

Claim 1 is also amended to clarify that obtaining financing to purchase the second investment portfolio is borrowing against the first investment portfolio to purchase the second investment portfolio on an essentially all cash basis by first obtaining financing collateralized by pledging the first investment portfolio of securities and then using the financing to purchase on an all cash basis income-producing real estate investments for the second investment portfolio. This is disclosed in the specification at page 8, lines 15 – 18 and does not introduce new matter.

Finally, Claim 1 is amended to introduce a lengthy recitation of the computer based method steps that are employed to cooperatively manage the two investment portfolios. This is disclosed in the specification from page 22, line 9 to page 23, line 2 and also in Fig. 3. This also does not introduce new matter. In addition, Claims 9 and 19 – 21 have been amended to conform with the changes to Claim 1 and also does not introduce new matter. To be complete applicants note that Claims 24, 25, 28, 29, 45 and 47 are cancelled without prejudice to their subsequent presentation.

Instead, for reasons that are submitted below, the claims are believed to be in condition for allowance. The amendments are believed to resolve the concerns raised by the Examiner. Accordingly, reconsideration is respectfully requested.

Turning to the Official Action, the Examiner has rejected all claims under 35 U.S.C. §101 as being directed to non-statutory subject matter because the method is insufficiently tied to a statutory machine or apparatus and therefore is not a patent-eligible process. This rejection is respectfully traversed in view of the above amendment to Claim 1 for the reasons set forth hereinafter.

Claim 1 as amended is now tied to a machine to transform investment portfolios in a way that requires the machine to perform extra-solution activity. Under the August 25, 2009 USPTO Guidelines to Examiners, the method as presently claimed qualifies as statutory subject matter. By amending Claim 1 in this manner, this rejection under 35 U.S.C. §101 has thus been overcome. Reconsideration by the Examiner and withdrawal of this rejection is respectfully requested.

Next, the Examiner has rejected all claims under 35 U.S.C. §112, second paragraph as indefinite for failing to particularly point out and distinctly claim the subject matter Applicant regards as the invention. The Examiner considered all four process steps to be vague and indefinite. This rejection is respectfully traversed in view of the above claim amendments for the following reasons.

First, the Examiner stated that Claim 1 was vague and indefinite "as to how these securities are transformed by the they are collaterizable [(sic.)], nor is it clear how this step is connected to a programmed processor." Claim 1 is amended to clarify that this step is not connected to a programmed processor. As for the Examiner questioning how securities are collateralized, it is well known by those of ordinary skill in the art that essentially any negotiable security can be pledged as collateral to borrow money. To clarify this, Claim 1 has been amended to re-state the controlling step as the step of receiving control of collateralizable securities with the authority to pledge the securities as collateral. It is now unambiguous to those of ordinary skill in the art the degree of control over the first investment portfolio that falls under the scope of Claim 1 as amended.

Next, the Examiner considered the step of obtaining financing by pledging the portfolio of securities to be indefinite. He also questioned how the collateralization of this

step differed from that of the first step. He further questioned how this step was connected to a programmed processor. To clarify this, Claim 1 has been amended to re-state that obtaining financing to purchase the second investment portfolio is borrowing against the first investment portfolio to purchase the second investment portfolio on an essentially all cash basis by first obtaining financing collateralized by pledging the first investment portfolio of securities and then using the financing to purchase on an all cash basis income-producing real estate investments for the second investment portfolio. Not only does this clarify how the financing is obtained by using the first investment portfolio as collateral, the first two steps have also been amended to clarify that in the first step the authority to pledge the securities is obtained and in the second step the authority is exercised to obtain financing. Finally, Claim 1 is amended to clarify that this step is not connected to a programmed processor.

Next, the Examiner considered the step of purchasing "complementary investment portfolio" to be vague and indefinite as to the prerequisites of a complementary instrument and as to how this step was connected to a programmed processor. Claim 1 is amended so the second investment portfolio is no longer defined as a complimentary portfolio. Instead, it is defined as containing a plurality of income-producing real estate investments. The type of assets in the second investment portfolio is now unequivocal. Further, Claim 1 is amended to clarify that this step is not connected to a programmed processor.

Next, the Examiner considered the step of using the financing obtained by pledging he first investment portfolio to purchase multiple income-producing real estate investments without any financing collateralized by the real estate to be vague and indefinite "as the proceeds obtained from the collateralization are fully fungible and it cannot be determined how this step is determined, nor is it clear how this step is connected to a programmed processor." Claim 1 has been amended to clarify that the method borrows against the securities of the first investment portfolio to purchase income-producing real estate for the second investment portfolio on an all cash basis. That the cash may be fungible is irrelevant. The net effect is that real estate is purchased without mortgaging the property by borrowing instead against the securities of the first investment portfolio to fund the transaction. It is now unambiguous how money is borrowed against the first investment portfolio to fund the

real estate purchases for the second investment portfolio. Furthermore, Claim 1 is amended to clarify that this step is not connected to a programmed processor.

Finally the Examiner considered the step of managing the combined asset by cross-utilizing securities growth and real estate income to benefit the investors to be vague and indefinite as to the underlying utilization algorithm and the manner in which it was connected to a programmed processor. Claim 1 has been extensively amended to recite the specific process steps involved in the cross-utilization of assets to the extent that one of ordinary skill in the art can readily identify underlying utilization algorithms for implementing the inventive method. Furthermore, the manner in which the method steps are connected to a programmed processor is now clear. Claim 1 is now unambiguous as to how the two investment portfolios are managed to cross utilize the two types of assets.

By amending Claim 1 in this manner, this rejection under 35 U.S.C. §112, second paragraph has thus been overcome. Reconsideration by the Examiner and withdrawal of this rejection is therefore respectfully requested.

Finally the Examiner has issued a requirement for information under 35 C.F.R. §1.105. In particular, the Examiner has requested Applicant to provide "any communications directed to U.S. regulatory agencies directing this claimed invention." An "attached requirement for information" was supposedly included with the Office Action. However, none was received, nor is one of record in the Internet File Wrapper on PAIR.

Regardless, Applicant can respond to this inquiry by stating that he has directed no communications to any U.S. regulatory agencies regarding this invention.

Accordingly, in view of the above claim amendments and remarks, this application is in condition for allowance. Reconsideration is therefore respectfully requested. However, the Examiner is requested to telephone the undersigned if there are any remaining issues in this application to be resolved.

Finally, if there are any additional charges in connection with this response, the Examiner is authorized to charge Applicant's Deposit Account No. 50-1943 therefor.

Respectfully submitted,

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